

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Poochigian Analyst: Kristina E. North Bill Number: SB 630
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 22, 2001
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public School Uniform & Transportation Costs Credit/Low-Performing Schools/FTB Report to Legislature and Department of Finance

SUMMARY

This bill would create two credits:

- A credit for the purchase of a school uniform for a child attending a low-performing school; and
- A credit for the costs of transporting a child to a school that is not designated as a low-performing school.

These credits and the reporting requirements will be discussed separately.

This analysis discusses only those issues that impact the Franchise Tax Board (FTB).

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide relief from the financial burden of:

- Purchasing a public school uniform for a child attending a low-performing school; and
- Sending a child whom lives in a designated low-performing school area to a better public school.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. The credits would be operative for taxable years beginning on or after January 1, 2001.

POSITION

Pending.

Summary of Suggested Amendments

Departmental staff is available to assist with amendments to resolve the implementation and policy concerns discussed below.

Board Position:

____ S ____ NA ____ NP
____ SA ____ O ____ NAR
____ N ____ OUA ____ X PENDING

Department Director

Date

Alan Hunter for GHG

04/30/01

ANALYSIS

FEDERAL/STATE LAWS

Current federal and state tax laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or achieve social goals. However, neither state nor federal laws currently allow a credit for expenses related to the purchase of a mandated public school uniform.

Current federal and state tax laws allow a tax deduction for limited types of personal expenses for those persons who itemize their deductions instead of taking the standard deduction. Some personal expenses, including certain taxes and home mortgage interest, generally are fully deductible. Personal medical and dental expenses are deductible only to the extent they exceed 7.5% of the taxpayer's adjusted gross income (AGI), while other miscellaneous itemized deductions, which include unreimbursed employee expenses and tax preparation fees, must collectively exceed 2% of AGI to be deductible. Generally, expenses paid or incurred for the education of a child are considered a personal expense that is not deductible.

Under the Education Code, current state law allows the governing board of any school district to adopt or rescind a reasonable dress code policy that requires pupils to wear a uniform or prohibits pupils from wearing "gang-related apparel." Individual schools may include the reasonable dress code policy as part of its school safety plan. Parents may choose not to have their children comply with an adopted school uniform policy. If a school uniform is required, the principal, staff, and parents of the individual school must select the specific uniform.

SCHOOL UNIFORM CREDIT

THIS BILL

This bill would allow a parent or guardian a 100% credit, up to \$250, for the purchase of a school uniform(s) for a qualified dependent (as defined) attending a low-performing school or whose home residence is within the boundary of a low-performing school that is at the dependent's age level. For taxable years beginning before January 1, 2004, if the dependent is not attending a low-performing school but has a home residence within the boundary of a low-performing school, the dependent must attend a public school to qualify for this credit. For taxable years beginning on or after January 1, 2004, the dependent is not required to attend a public school to qualify for the credit.

This bill defines:

- "Low-performing school" as a school in the bottom half of the Academic Performance Ranking Index established by the Education Code.
- "Parent or guardian" as a natural or adoptive parent, custodial grandparent, or any other person with an enforceable obligation to support a dependent child.
- "Qualified dependent" as an unmarried person 18 years of age or younger, who is not emancipated and is a student either attending a low-performing school or whose home residence is within the boundary of a low-performing school at that dependent's age level.

Any excess credit could be carried over until exhausted.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's staff to resolve these and other concerns that may be identified.

- As currently drafted, this bill would allow each parent or guardian to claim a \$250 credit for each dependent. In addition, with no limitation, each parent or guardian may claim a credit for the same dependent(s), thus allowing each child to generate two credits.
- This bill uses terms or phrases that are undefined, including "enforceable obligation" and "home residence." Additionally, clarification is needed for the following terms or phrases. With the lack of definitions and no methods of verification of credit information as discussed below, this credit could lead to disputes with taxpayers and would complicate the administration of the credit.
 - "School uniform." A school district may mandate a dress code as opposed to a school uniform. Without clarification, a "uniform" could be considered any item of clothing that meets the dress code. Clarification of whether this credit is allowed only for apparel designated as a mandatory uniform, along with verification, such as providing a copy of school uniform mandate upon request, would be helpful in the administration of this credit.
 - "Boundary." No method for determining a school's "boundary" is provided. It would be helpful if a list of low-performing schools with their respective age levels and a map providing a low-performing school's boundaries could be required to be provided upon request so the department could determine 1) that a school attended is a low-performing school; 2) that a dependent's home residence is within the boundary of a low-performing school that is at the dependent's age level; or 3) that the dependent whose home residence is within the boundary of a low-performing school is attending a "public" school. The information could be provided by the school, the school district, or the Department of Education to the taxpayer or directly to the department, upon request.
 - "Public school." Since a student who is 18 (and in some circumstances 16 or 17) may attend a community college, clarification of whether a "public school" means specifically grades K-12 would be helpful.

TECHNICAL CONSIDERATIONS

While the bill defines a "parent or guardian" and also a "qualified dependent", the bill does not clearly require that the qualified dependent be a dependent of the parent or guardian. In effect, as currently drafted, any taxpayer that satisfies the definition of a parent or guardian, and purchases school uniforms or incurs transportation costs (including, for example, grandparents or even unrelated persons who make the requisite expenditures) could potentially claim either or both of these credits.

POLICY CONCERNS

Credits generally are provided as a percentage of actual expenses. This bill would allow a 100% credit, which is unprecedented.

This bill does not specify a repeal date or limit the number of years for the carryover period. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, even if a repeal date were added, the department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

Beginning in 2004, this bill would allow a credit for private school uniforms that could contain religious symbols, emblems, etc.

TRANSPORTATION CREDIT

This bill would allow a parent or guardian a 100% credit for actual transportation costs associated with a qualified dependent's attendance at a school that is not designated as a low-performing school. For taxable years beginning before January 1, 2004, the dependent must attend public school. For taxable years beginning on or after January 1, 2004, the dependent is not required to attend a public school to qualify for this credit.

This bill defines:

- "Low-performing school" as a school in the bottom half of the Academic Performance Ranking Index established by the Education Code.
- "Parent or guardian" as a natural or adoptive parent, custodial grandparent, or any other person with an enforceable obligation to support a dependent child.
- "Qualified dependent" as an unmarried person 18 years of age or younger, who is not emancipated and is a student either attending a low-performing school or whose home residence is within the boundary of a low-performing school at that dependent's age level.

Any excess credit could be carried over until exhausted.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's staff to resolve these and other concerns that may be identified.

- As currently drafted, this bill would allow each parent or guardian to claim a \$250 credit for each dependent. In addition, with no limitation, each parent or guardian may claim a credit for the same dependent(s), thus allowing each child to generate two credits.
- This bill uses terms or phrases that are undefined, including "enforceable obligation" and "home residence." Additionally, clarification is needed for the following terms or phrases. With the lack of definitions and no methods of certification, this credit could lead to disputes with taxpayers and would complicate the administration of the credit.
 - "Transportation costs." Clarification is needed of whether this credit is allowed only for direct costs, such as gas or mileage, or whether costs would include other costs such as car repairs (or depreciation) or the purchase of a vehicle to transport the child.

- "Boundary." No method for determining a school's "boundary" is provided. It would be helpful if a list of low-performing schools with their respective age levels and a map providing the low-performing school's boundaries could be required to be provided upon request so that the department could determine 1) that a school attended is a low-performing school; 2) that a dependent's home residence is within the boundary of a low-performing school that is at the dependent's age level; and 3) that the dependent whose home residence is within the boundary of a low-performing school is attending a "public" school. The information could be provided by the school, the school district, or the Department of Education to the taxpayer or directly to the department.
- "Public school." Since a student who is 18 (and in some circumstances 16 or 17) may attend a community college, clarification whether a "public school" means specifically grades K-12 would be helpful.

TECHNICAL CONSIDERATIONS

While the bill defines a "parent or guardian" and also a "qualified dependent", the bill does not clearly require that the qualified dependent be a dependent of the parent or guardian. In effect, as currently drafted, any taxpayer that satisfies the definition of a parent or guardian, and purchases school uniforms or incurs transportation costs (including, for example, grandparents or even unrelated persons who make the requisite expenditures) could potentially claim either or both of these credits.

POLICY CONCERNS

This bill does not specify a repeal date or limit the number of years for the carryover period. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, even if a repeal date were added, the department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

Credits generally are provided as a percentage of actual expenses. This bill would allow a 100% credit, which is unprecedented. This bill would allow the credit even if the qualifying dependent attends a school outside of California.

REPORTING REQUIREMENT

THIS BILL

This bill would require the FTB to report to the Department of Finance (DOF) by January 1 of each year the amount of the two credits allowed in the preceding taxable year under the credits established by this bill.

This bill also would require the FTB to report to the Legislature by July 1, 2001, the fiscal impact of the two tax credits provided by this bill.

IMPLEMENTATION CONCERNS

It is unclear if the author intends the report to DOF to include the total number of or the dollar amount of the credits allowed in the preceding taxable year. Typically, the department would report on both items. Additionally, tax returns for individuals are due by April 15th, with an automatic extension to file until October 15th. The department would be unable to provide a report on January 1st on the preceding taxable year's allowable credits since the credit has not been claimed at that time. Generally, information regarding credit numbers and amounts is not available until approximately one and a half years after the credit is claimed.

The reporting requirement to the Legislature refers to "the tax credit" when two different tax credits would be created by this bill. It is assumed the author wishes the department to report on both credits.

Other than the revenue estimate contained in this analysis, the department would be unable to report on these credits by July 1, 2001, since they would not be claimed until the 2001 tax return is filed in 2002.

LEGISLATIVE HISTORY

SB 818 (Poochigian, 1999/2000) would have established a credit equal to the lesser of 50% of the taxpayer's costs or \$250 for a public school uniform mandated by a school district. This bill failed passage from house of origin.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and New York do not have similar credits. These states were chosen for their similarities to California state tax law.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Based on the data and assumptions below, revenue losses are estimated as follows:

Estimated Revenue Impact			
Taxable/Income Years Beginning On or After January 1, 2001			
Enactment Assumed After June 30, 2001			
Fiscal Years			
(In Millions)			
	2001/2002	2002/2003	2003/2004
School Uniform Credit	-\$30	-\$39	-\$41
School Transportation Costs Credit	*	*	*

*Unknown but minor, less than \$1 million annually, revenue losses in 2001/2002 and 2002/2003, increasing to potentially tens of millions of dollars in 2004 and subsequent years.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Estimate Discussion

The revenue impact for the proposed school uniform credit will be determined by the number of children attending or living within the boundary of a low-performing school, the number of these schools requiring school uniforms, the total cost of the uniforms, and the percent of credit that can be applied.

The estimated revenue losses are based on an average yearly uniform cost of \$150 per child, not accounting for any reimbursements or subsidies a taxpayer may receive for purchasing the uniforms. The proposal does not require any reduction in the credit amount for uniform reimbursements received by the taxpayer. Under California law, certain students qualify for financial assistance for uniform purchases.

The dependent living within the boundary of a low-performing school must attend a public school for taxable years ending on or before December 31, 2003, after that the dependent may attend a private school. In 2001, it is projected that 30% or 930,000 of the 3.1 million students attending "low-performing schools" will wear uniforms. In 2004, taxpayers with dependents living within the boundary of a low performing school and attending a private school would also be eligible for the credit. The number of children projected to attend California private schools in 2004 is approximately 775,000. For purposes of this estimate, it is expected that 1/3 or approximately 260,000 of these children would live within the boundary of a low-performing school, wear uniforms, and therefore are included in the estimated 2004 revenue loss. It is assumed that 85 percent of students wearing uniforms receive new outfits each year. For all estimated years, it is projected that more than 50 percent of the available credit would not be applied due to limited tax liabilities of the targeted taxpayers.

The proposal does not provide a definition of "actual transportation costs associated with a qualified dependent's attendance at a school that is not designated as a low-performing school." The lack of a clear definition of these costs provides a potential opportunity to claim this credit for any transportation costs incurred. For example, the cost of a car used to transport a qualified dependent to a qualified school could be construed as an allowed cost for this credit, although the car is also used for other purposes. The annual cost associated with this transportation credit could be in the tens of millions of dollars annually beginning in 2004, depending on the costs claimed by taxpayers.

It is assumed that the revenue losses associated with transportation costs in 2001 through 2003 will be minor, since students attending private schools would not be eligible to generate any credit until 2004. The number of children living within the boundaries of a low-performing school as specified and receiving an intra or inter-district permit to attend a different public school is projected to be minimal. In 2004 the estimated 260,000 children that would live within the boundary of a low-performing school and attend a private school would also be eligible to generate this credit.

LEGISLATIVE STAFF CONTACT

Kristina E. North
Franchise Tax Board
845-6978

Brian Putler
Franchise Tax Board
845-6333